

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Gust H. Bardy et al.

Confirmation No.: 2599

Serial No.: 09/940,599

Examiner: J. Jastrzab

Filing Date: August 27, 2001

Group Art Unit: 3762

Docket No.: 1201.1114101

Customer No.: 28075

For: CANISTER DESIGNS FOR IMPLANTABLE CARDIOVERTER-DEFIBRILLATORS

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Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.313(c)(1) TO WITHDRAW APPLICATION
FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE**CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. §1.8 (1)(B))**

I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office at 703-872-9306 on the date shown below.

Kathleen L. Boekley

Type or print name of person signing certification

Kathleen L. Boekley

Signature

October 26, 2004

Date

Dear Sir:

Applicants hereby petition for the withdrawal of the above-referenced application from issue under 37 C.F.R. § 1.313(c)(1). The issue fee for this application was paid on September 30, 2004. Applicant has not yet been notified when this application is scheduled to issue.

Claims 83-90 and 92-123 were allowed in this case. However, the subject matter included in allowed claims 104-122 is not supported by the disclosure of the present application. Therefore, claims 104-122 fail to comply with the written description requirement under 35 U.S.C. §112, first paragraph, and as such, are not patentable in the context of the present application.

A new amendment is being filed herewith, canceling claims 104-122. The remaining claims (claims 83-90, and 92-103) are patentable as indicated during examination. As such,

10/28/2004 AKELLEY 00000001 500413 09940599

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Appl. No. 09/940,599

Pet. To Withdraw from Issue dated October 26, 2004

Applicants respectfully request that the application be issued with remaining claims 83-90 and 92-103.

Please charge the petition fee under 37 C.F.R. § 1.17(h) of \$130.00 to Deposit Account No. 50-0413.


Applicants thank Petitions Examiner Sherry D. Brinkley for the time taken to discuss this petition with Applicants' representative. If a phone conference is believed necessary to resolve any outstanding issues with respect to the above discussion, the Examiner is respectfully requested to contact the undersigned attorney at 612-677-9050.

Respectfully submitted,

Gust H. Bardy et al.

By their Attorney,

Dated: October 26, 2004


Scot Wickhem, Reg. No. 41,376
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Telephone: (612) 677-9050
Facsimile: (612) 359-9349

Attachment: Amendment

CROMPTON | SEAGER | TUFTE | LLC

Patent, Trademark & Copyright Attorneys

1221 Nicoller Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Phone 612.677.9050
Fax 612.359.9349

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DATE: October 26, 2004

TO: Commissioner for Patents
Attn: Sherry D. Brinkley, Petitions Examiner
P.O. Box 1450
Alexandria, VA 22313-1450

FROM: J. Scot Wickhem

OUR REF: 1201.1114101
TELEPHONE: 612-677-9050

Total pages, including cover letter: 9

PTO FAX NUMBER: [REDACTED] 571-273-0025


If you do NOT receive all of the pages, please telephone us at (612) 677-9050, or fax us at (612) 359-9349.

Title of Document(s) Transmitted: PETITION UNDER 37 C.F.R. § 1.313(c)(1) TO
WITHDRAW APPLICATION FROM ISSUE
AFTER PAYMENT OF THE ISSUE FEE, AND
AMENDMENT

Applicant: Gust H. Bardy et al.
Serial No.: 09/940,599
Filed: August 27, 2001
Group Art Unit: 3762
Our Ref. No.: 1201.1114101
Confirmation No.: 2599
Customer No.: 28075

Please charge Deposit Account No. 50-0413 in the amount of \$130.00, Fee Code 1460.

Please charge any additional fees or credit overpayment to Deposit Account No. 50-0413. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By: 
Name: J. Scot Wickhem
Reg. No. 41,376

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Name: Kathleen L. Boekley

October 26, 2004
Date

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